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45 (New) The malleable surgical clamp of claim 44 wherein the receiving  
end is a socket and the outwardly projecting engaging end is substantially  
hemispherically shaped.--

### REMARKS

This Reply is in response to the Office Action mailed on 9 March 2000, in which claims 36-42 were rejected. Reconsideration and withdrawal of all rejections in the Office Action is respectfully requested.

With this reply, claims 36 and 40 are cancelled, claim 37 is amended, and claims 43-45 are added. Claims 37-39 and 41-45 are presented for consideration and allowance.

#### I. REJECTION OF CLAIM 36 UNDER 35 U.S.C. § 112

Paragraph 1 of the Office Action rejected claim 36 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 36 is cancelled.

#### II. REJECTION OF CLAIMS 37, 40 AND 42 UNDER 35 U.S.C. § 102(b) AS BEING ANTICIPATED BY SCHOOLMAN

Paragraph 3 of the Office Action rejected Claims 37, 40 and 42 under 35 U.S.C. § 102(b) as being anticipated by Schoolman (U.S. Patent No. 4,483,562). Independent Claim 37 is amended. Claim 40 is cancelled. Claim 42 depends from independent claim 37. Claims 37 and 42 overcome the rejection based upon Schoolman, and are believed to be in condition for allowance.

Claim 37, as amended, recites a surgical clamp including an elongate, one-piece, malleable hollow shaft, a tissue clamp assembly, a handle assembly and an elongate actuator. The malleable hollow shaft includes a distal end and a proximal end. The tissue clamp assembly includes first and second movable opposable jaws

mounted at the distal end. The handle assembly includes first and second movable arms mounted at the proximal end. An elongate actuator is disposed within the hollow shaft. The actuator includes a first end operatively connected to the tissue clamp assembly and a second end operatively connected to the handle assembly such that when the handle arms are moved from a first relative position to a second relative position, the first and second jaws of the tissue clamp assembly are moved between an open spaced apart position and a closed tissue gripping position or vice versa.

Schoolman does not disclose, teach or suggest the surgical clamp of claim 37, as amended. In particular, Schoolman does not disclose, teach or suggest a surgical clamp including an elongate, one-piece, malleable hollow shaft. In contrast, Schoolman discloses a locking flexible shaft device including a shaft comprising a plurality of engaging shaft members. The shaft members include a plurality of alternating spacers and spheres, each having a longitudinal axial bore for receiving a tensioning member. The shaft of Schoolman is not a one-piece shaft. Accordingly, claim 37, as amended, overcomes the rejection based upon Schoolman and is in condition for allowance. Claim 42 directly depends from independent claim 37 and overcome the rejection for at least the same reasons.

**III. REJECTION OF CLAIMS 37-39, 41 AND 42 UNDER 35 U.S.C. § 102(b)  
AS BEING ANTICIPATED BY CLOSSICK**

Paragraph 4 of the Office Action indicates that claims 37-39, 41 and 42 under 35 U.S.C. § 102(b) as being anticipated by Clossick (U.S. Patent No. 4,945,920). Independent Claim 37 is amended. Claims 38, 39, 41 and 42 depend from independent claim 37. Claims 37-39, 41 and 42 overcome the rejection based upon Clossick, and are believed to be in condition for allowance.

As stated above claim 37, as amended, includes a surgical clamp having an elongate, one-piece, malleable hollow shaft. Clossick does not disclose, teach or suggest the surgical clamp of claim 37, as amended. In particular, Clossick does not disclose, teach or suggest a surgical clamp including an elongate, one-piece, malleable

hollow shaft. In contrast, Clossick discloses a biopsy forceps including a multi-piece torqueable and formable body assembly or shaft. The body assembly includes a coil spring guidewire, a first sleeve and a second sleeve. The first sleeve, also referred to as the torqueable tubing is preferably formed by three layers of tubing, an inner plastic extrusion, a tubular envelope of braided material and an outer plastic extrusion. The biopsy forceps of Clossick rely on the multiple pieces described above to allegedly achieve a shaft that is torqueable and formable. The body assembly or shaft of Clossick is not a one-piece shaft. Accordingly, claim 37, as amended, overcomes the rejection based upon Clossick and is in condition for allowance. Claims 38, 39, 41 and 42 directly depend from independent claim 37 and overcome the rejection for at least the same reasons.

#### **IV. ADDED CLAIMS**

New claim 43 is directed to a surgical clamp including an elongate malleable hollow shaft, a tissue clamp assembly, a handle assembly and an elongate actuator. The malleable hollow shaft includes a distal end and a proximal end. The shaft comprises a plurality of uniform shaft segments. The tissue clamp assembly includes first and second movable opposable jaws mounted at the distal end. The handle assembly includes first and second movable arms mounted at the proximal end. An elongate actuator is disposed within the hollow shaft. The actuator includes a first end operatively connected to the tissue clamp assembly and a second end operatively connected to the handle assembly such that when the handle arms are moved from a first relative position to a second relative position, the first and second jaws of the tissue clamp assembly are moved between an open spaced apart position and a closed tissue gripping position or vice versa.

The prior art of record fails to disclose, teach or suggest the surgical clamp of new independent claim 43. New claims 44 and 45 depend from claim 43. Accordingly, claims 43-45 are presented for consideration and allowance.

VI. CONCLUSION

Applicants respectfully request reconsideration of claims 37-42 and new claims 43-45 for the reasons stated above. Applicants believe that the present application is now in condition for allowance. Favorable reconsideration under 37 C.F.R. § 1.112 of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

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